

3 FAM 2580 REDUCTION-IN-FORCE³/₄FOREIGN SERVICE

3 FAM 2581 AUTHORITY

3 FAM 2581.1 Legal Authority

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

These regulations implement section 611 of the Foreign Service Act of 1980 (as amended).

3 FAM 2581.2 Management Authority

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. The Secretary of State, the Under Secretary for Management, and the Director General of the Foreign Service (DG) are responsible for the size and composition of the Foreign Service and for assuring a balance between the Department resources and work to be accomplished. The Secretary will determine whether to use reduction in force (RIF) procedures to separate a member of the Service due to lack of work, shortage of funds, insufficient personnel ceiling, or reorganization.

b. The Under Secretary for Management and the Director General will determine the number of employees and skill categories to be reduced through a RIF. They will then submit specific options and recommendations to the Secretary for approval.

c. The Secretary will designate those competition groups from which members are to be released. Members not in competition groups so designated will not compete for retention.

3 FAM 2582 COVERAGE

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. These regulations apply to members of the Service holding career or career candidate appointments under Chapter 3 of the Foreign Service Act as amended.

b. Officers appointed under section 302 and who are serving in a position as:

- A chief of mission,
- An ambassador at large,
- An ambassador, or
- A minister,

on the date of the general notice of RIF are not covered. Also excluded from coverage by these regulations are career members of the Foreign Service with the personal rank of career ambassador as of the date of the general notice of RIF.

3 FAM 2583 DEFINITIONS

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

These definitions apply only for purposes of this subchapter.

Competition group: All members in a class and cone or skill group that are competing with each other for retention (see section 3 FAM 2584.1).

Current class: The pay class an employee occupies at the time a general notice of a RIF is issued.

Day: A calendar day.

Length of service: The amount of Government service a competing member has based on the official service computation date (SCD).

Member: A member of the Foreign Service to whom this regulation applies (see section 3 FAM 2582).

Notice: Written communication from the DG to a member announcing a RIF action.

PAR: Personnel Audit Report.

Previous class: The pay class from which an employee was promoted to the current class.

Retention register: The retention ranking of all members in a competition group.

Veterans preference: Additional credit given to employees based upon military service as defined by 5 U.S.C. 2108, subject to 5 U.S.C. 3501(a)(3).

3 FAM 2584 ESTABLISHING AREAS AND GROUPS AND VETERANS PREFERENCE

3 FAM 2584.1 Competitive Area

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

The competitive area for a RIF will not be limited to a specific post, region, or bureau. All members in a competition group, regardless of location, will be reviewed and placed on a retention register.

3 FAM 2584.2 Competition Groups

3 FAM 2584.2-1 Generalists

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. Competition groups for generalist officers at the FO-02 through FE-MC levels will be established based on the class and occupational group (i.e., primary skill codes grouped for promotion competition purposes in accordance with the promotion precepts that are in force at the time a general notice of RIF is issued) of the competing members, with each occupational group at a given class constituting a competition group.

b. Generalist officers at the CM level and at the FO-03 level or below will be competed class-wide without regard to cone, with each class constituting a competition group.

3 FAM 2584.2-2 Specialists

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Competition groups for specialists will be established by skill code and class level. Each class within a specialist skill group will constitute a separate competition group.

3 FAM 2584.3 Tenure Groups

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Tenure groups are defined as follows:

(1) Tenure group I consists of career members of the Service whose appointments are not otherwise limited (see section 3 FAM 2584.3 b);

(2) Tenure group II consists of employees serving on Limited Career Extensions through the application of section 607(b) of the Act and employees who are being retained through application of section 607(d)(2) of the Foreign Service Act of 1980 (as amended);

(3) Tenure group III consists of untenured members.

3 FAM 2585 RETENTION CRITERIA, POINTS

3 FAM 2585.1 Veterans Preference

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Eligibility for preference based upon military service has the same meaning given that term by 5 U.S.C. 2108, subject to 5 U.S.C. 3501(1)(3). Any future changes affecting these provisions will also apply to members of the Foreign Service.

3 FAM 2585.2 Members Subject to Time-in-Class Restrictions

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Based on data as of the date the retention register is established, members subject to time-in-class restrictions who are at or above the first competitive promotion group will receive points for the following.

3 FAM 2585.2-1 Veterans

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Members who are disabled veterans receive 10 points. All other eligible veterans receive five points.

3 FAM 2585.2-2 Unused Multiclass TIC

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

For each full year of unused multiclass TIC (single class TIC at the FE-OC level), members are awarded three points at the Senior level, two points at the FS-01 level, and one point at the FS-02 level and below.

3 FAM 2585.2-3 Language Proficiency

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

For each language on a member's PAR in which he/she has attained at least a 3/3 proficiency, the member will receive one point.

3 FAM 2585.2-4 Previous Selection Board Ratings

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Members receive and accumulate points based on the results of each of the five previous selection boards.

(1) Members receive 20 points for being recommended for promotion from their current class;

(2) Members receive 15 points for each promotion from a previous class;

(3) Members receive 10 points for each recommendation for promotion from a previous class (if not promoted in the same year). Members will only receive credit for one promotion recommendation in a given year;

(4) If they have not been recommended for promotion in the same year, members receive five points for each Meritorious Service Increase (MSI) or selection board commendation in lieu of an MSI that they receive;

(5) Members who are ineligible for promotion (first two years in class) because they are newly promoted receive 10 points for each year ineligible;

(6) FS-01 officers who are not considered for promotion because they have not opened their window receive five points for each year after the first two years in class;

(7) Members who are eligible but not recommended for promotion receive five points for each year not recommended;

(8) If a member has one or more missing board reviews in the past five years, the member will receive five points for each missing review to complete the five year period;

(9) For members of a competition group who have been appointed to the Service within the past five years at the FS-03 level or above, their initial appointment will be considered the same as a promotion and they will receive 15 points for the year of their appointment. Points for all the other four years will be awarded in accordance with the provisions of section 3 FAM 2585.2-4 (1) through (8).

3 FAM 2585.2-5 Composite Score

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

A composite score is derived by adding the points awarded for each of the categories listed in section 3 FAM 2585.2 .

3 FAM 2585.3 Members Not Subject to TIC

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Certain competition groups are not subject to time in class rules; therefore, composite scores for members of these groups will be calculated based on data as of the date the retention register is established as follows:

3 FAM 2585.3-1 Veterans

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Members who are disabled veterans receive 10 points. All other eligible veterans receive five points.

3 FAM 2585.3-2 Credit for Time to Reach the Current Class from a Base Class

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

- a. The base class for:

| | |
|--|-------|
| Secretaries | FP-07 |
| All other competition groups covered by this section | FP-05 |

- b. The number of full years it takes a member to reach the current class from the base class is subtracted from 30. The remainder is multiplied by a number as follows:

| Skill Group | Class | Multiplier |
|--------------------|--------------|-------------------|
| Secretary | FP-03 | 3 |
| | FP-04 | 2 |
| Diplomatic Courier | FE-OC | 3 |
| | FP-01 | 2 |
| Medical Technician | FP-02 | 3 |
| | FP-03 | 2 |
| Nurse | FP-01 | 3 |
| | FP-02 | 2 |

A multiplier of one is used for all other classes.

3 FAM 2585.3-3 Language Proficiency

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

For each language on a member's PAR in which he/she has attained at least a 3/3 proficiency, that member will receive one point.

3 FAM 2585.3-4 Previous Selection Board Ratings

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

Members receive and accumulate points based on the results of the five previous selection boards.

(1) Members receive 10 points for being recommended for promotion from their current class;

(2) Members receive 15 points for each promotion from a previous class;

(3) Members receive 10 points from each recommendation for promotion from a previous class (if not promoted in the same year);

(4) Members receive five points for each Meritorious Service Increase or selection board commendation in lieu of an MSI that they received;

(5) Members who are ineligible for promotion because they are newly promoted receive 10 points for each year ineligible;

(6) FS-01 officers who are not considered for promotion because they have not opened their window receive five points for each year after the first two years in class;

(7) Members who are eligible but not recommended for promotion receive five points for each year not recommended;

(8) If a member has one or more missing board reviews in the past five years, the member will receive five points for each missing review to complete the five year period;

(9) For members of a competition group who have been appointed to the service within the past five years at the FS-03 level or above, their initial appointment will be considered the same as a promotion and they will receive 15 points for the year of their appointment. Points for the other four years will be awarded in accordance with the provisions of section 3 FAM 2585.2 .

3 FAM 2585.3-5 Composite Score

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

A composite score is derived by adding the points awarded for each of the categories listed in section 3 FAM 2585.2 .

3 FAM 2585.4 Officers (Both Generalists and Specialists) Below the First Competitive Promotion Level and Untenured Officers

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

For members of a competition group who occupy a class below the first competitive promotion level of their competition group and for untenured officers (regardless of class) the following procedures will be used to establish their standing on retention registers:

(1) Individuals will be assigned to their appropriate competition and tenure groups;

(2) Within their tenure groups members will be divided into three subgroups reflecting their entitlement to veterans preference:

| | |
|--|-------------|
| Members who have compensable service connected disabilities of 30% or more | Subgroup AD |
|--|-------------|

| | |
|-------------------------------------|------------|
| Other veterans preference eligibles | Subgroup A |
|-------------------------------------|------------|

| | |
|---|---------------------------|
| Members not entitled to veterans preference | Subgroup B (lowest group) |
|---|---------------------------|

(3) Within those subgroups employees will be rank-ordered by their service computation date, with those having the most service having the higher retention standing.

3 FAM 2585.5 Officers (Both Generalists and Specialists) Who Have Received Mandatory Retroactive Promotions

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. Officers covered by sections 3 FAM 2585.2 or 3 FAM 2585.3 who have received retroactive promotions during the five-year period used for establishing standing on a retention register will receive, in lieu of points that otherwise would have been awarded under sections 3 FAM 2585.2 and 3 FAM 2585.3 credit (15 points) for that promotion in the year it was awarded and 10 points for each subsequent year that they would not have been eligible for promotion had that retroactive promotion actually occurred in that year.

b. If the retroactive promotion occurred prior to the five-year period, but credit for ineligibility falls within the five-year period, 10 points will be awarded for any subsequent years they would not have been eligible that fall within the five-year period.

c. Points for all other years will be awarded based on the actual selection board activity that occurred and the provisions of sections 3 FAM 2585.2 and 3 FAM 2585.3 .

3 FAM 2586 RETENTION REGISTERS

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. Retention registers will be prepared at the time a RIF is announced and are the responsibility of PER/PE. A separate retention register will be prepared for each competition group. Members will be ranked on the retention register in descending order as follows:

(1) By tenure group I, group II, and group III; and

(2) Within each tenure group by the composite score derived from application of the criteria of sections 3 FAM 2585.2 and 3 FAM 2585.3 . For employees covered by section 3 FAM 2585.4 , by subgroup and within each subgroup by length of service;

(3) In the event the composite scores of two or more employees are tied, service computation date will be used to break the tie, with employees having longer service being ranked higher.

b. PER/PE will submit the retention register to the DG for approval.

c. Retention registers and other records concerned with a reduction in force will be maintained by PER/PE for at least one year from the date an employee is issued a specific notice, or as long as an administrative or judicial action is pending, whichever is longer.

3 FAM 2587 RELEASE FROM COMPETITION GROUP

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. Employees will be released from their competition groups in the inverse order of retention standing, beginning with the member with the lowest retention standing on the retention register.

b. When employees in the same retention group are tied and have identical service computation dates, the Director General may select any tied employee for release, stating the rationale for the retention of the employee(s).

3 FAM 2588 RIF NOTICES

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. After the Secretary decides to proceed with a reduction in force and after informing employee representatives, the Director General will issue a general notice of a RIF. The notice will contain:

- Information on the scope of the RIF, including the number of employees to be released and the competition groups from employees will be released;
- The timing of the RIF as proposed at the time of management's decision; and
- The cut off date for inclusion of additional information in an employee's PAR.

b. Except as provided in section 3 FAM 2588 c, a specific notice will be sent to each member to be separated from the Service at least 120 days prior to the effective date of separation. The notice will contain:

- (1) The effective date of separation;
- (2) Information on how that member was reached for separation including:

- The applicable retention criteria;
- The total number of points awarded;
- The competition group;
- The member's numerical position on the retention register; and
- The total number separated from the member's competition group;

(3) Information on the right to either file a grievance under Chapter 11 of the Act or an appeal to the Merit Systems Protection Board (MSPB);

(4) Time limits for filing with MSPB, a copy of the MSPB appeal form, the address of the appropriate MSPB office, and either a copy of MSPB regulations or information on access to a copy;

(5) Information on any entitlement to either an immediate annuity or a separation payment (see section 3 FAM 2589.3);

(6) Confirmation of the member's eligibility to participate in the Job Search Program, including entitlement to per diem in Washington for the member and his/her family during participation in the program for those employees who had been assigned outside Washington.

c. When the reduction in force is caused by circumstances not reasonably foreseeable, the Director General may authorize a notification period of less than 120 days. The shortened notice period must cover at least 30 full days before the effective date of release.

d. The notice period begins the day after the employee receives the notice.

3 FAM 2589 EMPLOYEE RIGHTS AND BENEFITS

3 FAM 2589.1 Grievances and Appeals

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. A member who has received a RIF notice specifying a separation date may either file a Chapter 11 grievance or file an appeal with the Merit Systems Protection Board (MSPB) under procedures prescribed by MSPB. A member may not do both.

b. Grievance filed under Chapter 11 shall be limited to cases of reprisal; interference in the conduct of a member's official duties; or similarly inappropriate use of the reduction in force authority. No other grievances relating in any way to a member's separation or proposed separation by reason of a reduction in force may be filed, including any grievance based upon the judgment of a promotion board in the evaluation of performance or based upon any allegation that the separation or proposed separation is predicated upon inaccuracies, omissions, errors, or falsely prejudicial information in any document which evaluates or otherwise comments upon an employee's performance or conduct. Any such grievance must be filed prior to the effective date of separation. The filing of a grievance will not delay the effective date of separation.

c. An appeal to the MSPB must be filed before the end of the 30-day period that begins with the day after the effective date of separation as stated in the member's specific notice of separation.

3 FAM 2589.2 Access to Retention Registers

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. In the event of a RIF, all employees covered by these regulations will be entitled to have access to retention registers for their competition group. Retention registers for this purpose will be rank-order lists of competition group members that do not identify competition group members by name but include only social security number, point total, and service computation date.

b. Retention registers will also be available to the bargaining unit representatives for review.

3 FAM 2589.3 Retirement Payment

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. A member who is separated pursuant to a RIF:

- After becoming eligible for voluntary retirement under section 811 of the Foreign Service Act; or
- From the Senior Foreign Service or while assigned to class 1 of the Foreign Service schedule;

shall receive retirement benefits in accordance with section 806 of the Foreign Service Act, as amended.

b. A member who is separated pursuant to a RIF and who is not covered under section 3 FAM 2589.3 a shall receive a separation payment computed under section 609(b) of the Foreign Service Act, as amended.

c. The effective date of retirement will be the effective date of separation specified in the RIF notice, or earlier if the officer so elects under section 811 of the Foreign Service Act, as amended.

3 FAM 2589.4 Transition Assistance

(TL:PER-323; 8-23-96)

(State Only)

(Applies to Foreign Service Employees Only)

a. Except as provided in section 3 FAM 2589.4 b, a member who is identified for separation from the Service pursuant to a RIF is eligible to participate in the full Job Search Program as set forth in 3 FAM 6100 Appendix A , Part 691.5-2, while in a paid status, including entitlement to per diem in Washington for the member and his/her family during participation in the program for those employees who had been assigned outside Washington.

b. When the reduction in force is caused by circumstances not reasonably foreseeable, the Director General may authorize a notification period of less than 120 days (see section 3 FAM 2588 c). In these circumstances, sufficient notice before separation may not be possible to allow participation in the full job search program as provided in section 3 FAM 2589.4 a. In this instance, employees will be eligible to participate in the Job Search Program in an unpaid status after separation with no entitlement to per diem in Washington for the member or his/her family.